

1 **Rusing Lopez & Lizardi, P.L.L.C.**
2 6363 North Swan Road, Suite 151
3 Tucson, Arizona 85718
4 Telephone: (520) 792-4800
5 Facsimile: (520) 529-4262
6 pwaterkotte@rllaz.com
7 avalentine@rllaz.com

8 Patricia V. Waterkotte
9 State Bar No. 029231
10 Alexander P. Valentine
11 State Bar No. 034902

12 *Attorneys for Defendant Harbor Freight Tools USA, Inc.*

13
14 **IN THE UNITED STATES DISTRICT COURT**
15
16 **FOR THE DISTRICT OF ARIZONA**

17 Nicholas Laguna, an unmarried man,

18 NO.

19 Plaintiff,

Pima County Superior Court
20 No. C20223728

21 vs.

22
23 **DEFENDANT HARBOR FREIGHT
TOOLS USA, INC.'S NOTICE OF
REMOVAL**

24 Harbor Freight Tools USA, Inc., a
25 Delaware corporation; Yuming
26 International, Ltd., a Chinese
27 corporation; Does I through X; ABC
28 PARTNERSHIPS I through X, and;
29 BLACK CORPORATIONS I through
30 X,

31 Defendants.

32 Pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and LRCiv 3.6, Defendant Harbor Freight
33 Tools USA, Inc. ("Harbor Freight") hereby removes this action from the Superior Court of
34 Arizona, Pima County to the United States District Court for the District of Arizona. Removal
35 is based on diversity jurisdiction under 28 U.S.C. § 1332.

1 In support of this Notice, Harbor Freight states as follows:

2 1. On September 12, 2022, Plaintiff Nicholas Laguna (“Laguna”) filed a
3 Complaint against Harbor Freight Tools USA, Inc., and YUMING INTERNATIONAL,
4 LTD., a Chinese corporation; DOES I through X; ABC PARTNERSHIPS I through X, and;
5 BLACK CORPORATIONS in the Superior Court of Arizona, Pima County. *See Ex. C*
6 **Complaint.**

7 2. Harbor Freight was served on November 29, 2022. *See Ex. D*, Affidavit of
8 Service. Harbor Freight removed this lawsuit within 30 days of service. Therefore, the Notice
9 of Removal is timely pursuant to 28 U.S.C. § 1446(b).

10 3. Harbor Freight removes this action based on 28 U.S.C. § 1441(b). There is
11 complete diversity of citizenship between Plaintiff, Harbor Freight and Yuming International,
12 Ltd., and the amount in controversy exceeds \$75,000.

DIVERSITY JURISDICTION

14 4. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §
15 1332(a) because Plaintiff, Harbor Freight and Yuming International, Ltd. are citizens of
16 different states and the amount in controversy exceeds \$75,000.

17 5. Plaintiff is a resident of the State of Arizona in Pima County. *See Ex. C,*
18 Complaint at 1.

19 6. Harbor Freight is, and was at the time Plaintiff commenced this action, a
20 corporation organized under the laws of the State of Delaware with its principal place of
21 business in California. Therefore, Harbor Freight is a citizen of both Delaware and California.
22 See 28 U.S.C. § 1332(c)(1).

23 7. Defendant Yuming International, LTD (hereinafter “Yuming”) is a foreign
24 corporation formed and organized under the laws of the Country of China whose headquarters

1 are located at 4F, Noble Center, No. 1006, 3rd Fuzhong Road, Futian District Shenzhen,
2 Guangdon, China. *See Ex. C*, Complaint at 4.

3 8. Defendants DOES I through X; ABC PARTNERSHIPS I through X, and;
4 BLACK CORPORATIONS I through X are fictitious entities. Plaintiff alleges the true
5 identities of the doe defendants are unknown. *See Ex. C*, Complaint at 5. Per 28 U.S.C. §
6 1441(b)(1), the citizenship of defendants sued under fictitious names shall be disregarded for
7 determining whether a civil action is removable under 28 U.S.C. § 1332(a).

8 9. Plaintiff asserts damages in excess of \$300,000. *See Ex. C*, Complaint at 19.
9 Thus, the amount in controversy exceeds the required \$75,000.

10. Because there is complete diversity of citizenship between Plaintiff, Harbor
11 Freight and Yuming, and because the amount in controversy is greater than \$75,000, this
12 Court has diversity jurisdiction over this matter under 28 U.S.C. § 1332(a). Removal based
13 on diversity of citizenship is proper.

CONSENT AND STATE-COURT FILINGS

11. Harbor Freight is the only defendant that has been served in this action. *See Ex. D*, Affidavit of Service; *see also Ex. E*, November 29, 2022 Order Granting Plaintiff's *Ex Parte* Motion for Order Enlarging Time Within Which to Secure Service of Process Upon Foreign Defendant by 270 days. Therefore, Harbor Freight need not obtain the consent of the other named defendant to remove this action. 28 U.S.C. § 1446(b)(2)(A).

20 12. Harbor Freight has provided a copy of this Notice of Removal to Plaintiff and
21 has filed a copy of the Notice of Removal with the Clerk of the Pima County Superior Court,
22 pursuant to 28 U.S.C. § 1446(d) and Arizona District Court local Rule 3.6(a). **Exhibit G** is a
23 copy of the Notice of Removal that Harbor Freight has filed with the Pima County Superior
24 Court.

1 13. Pursuant to 28 U.S.C. § 1446(a) and Arizona District Court Local Rule 3.6(b),
2 Defendant has attached copies of all process, pleadings and orders served upon them and all
3 pleadings filed by all parties with the Pima County Superior Court prior to this Notice of
4 Removal:

5 (1) Supplemental Civil Cover Sheet: **Ex. A**
6 (2) most recent state court docket: **Ex. B**
7 (3) operative complaint: **Ex. C**
8 (4) service documents: **Ex. D**
9 (5) answers: None
10 (6) state court orders terminating or dismissing parties: None
11 (7) notices of appearance: None
12 (8) pending motions, responses, and replies: None
13 (9) remainder of state court record: **Ex E**
14 (10) verification of the removing party or its counsel that true and complete
15 copies of all pleadings and other documents filed in the state court
16 proceeding have been filed: **Ex. F**
17 (11) Pima County Superior Court Notice of Removal: **Ex. G**

18
19 DATED this date 19th day of December, 2022

20 RUSING LOPEZ & LIZARDI, P.L.L.C.

21

/s/ Patricia V. Waterkotte

22 Patricia V. Waterkotte

23 Alexander P. Valentine

24 *Attorneys for Defendant Harbor Freight Tools
USA, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 19th day of December, 2022 via Notice of Electronic Filing, generated and transmitted by the ECF system of the District of Arizona, to the following CM/ECF registrants:

BREWERWOOD, P.L.L.C.

John B. Brewer
Dane L. Wood
2398 East Camelback Road, suite 540
Phoenix, AZ 85016
John@brewerwood.com
Dane@brewerwood.com
Attorneys for Plaintiff

By: /s/ Joan Harris

Lopez & Lizardi, P.L.C.
363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800